Summary of Legislation Affecting the Department of Revenue

58th Legislative Assembly
2003 Legislative Session

August 2003

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Comprehensive Tax Reform – Senate Bill 407

Senate Bill 407, sponsored by Senator Bob DePratu, represents the most comprehensive tax reform measure enacted in Montana in decades. Beginning January 1, 2005, Montana's individual income tax is revised and reduced in a manner that specifically addresses current features of the income tax believed to hinder economic development in the state. Replacement revenue is provided from a new "limited sales tax" on items purchased in large part by nonresidents. Additional revenue needed to close the large budget gap faced by the 58th Legislative Assembly is provided through increases in the state's cigarette and tobacco products taxes. Following sections provide details on each of these provisions of the bill.

Individual Income Tax

SB407 changes many aspects of Montana's individual income tax structure. First, individual income tax rates, which currently range from 2% to 11% are reduced to range from 1% to a top rate of 6.9%. The number of tax brackets is reduced from ten to seven. The following chart shows the change in tax rates and taxable income brackets for tax years 2005 and 2006.

Under SB407, the top rate of 6.9% applies to taxable income in excess of $13,900 in tax year 2005, and $14,300 in tax year 2006. As with current law, the SB407 tax bracket boundaries will continue to be indexed annually for inflation.

SB407 - TY2005

Individual Income Tax
Current Law Tax Rate Table

0	2,300	2%	
2,300	4,600	3%	(23)
4,600	9,200	4%	(69)
9,200	13,800	5%	(161)
13,800	18,400	6%	(299)
18,400	23,000	7%	(483)
23,000	32,300	8%	(713)
32,300	46,100	9%	(1,036)
46,100	80,700	10%	(1,497)
80,700		11%	(2,304)

Individual Income Tax
Proposed Law Tax Rate Table

0	2,300	1%	
2,300	4,100	2%	-23
4,100	6,200	3%	-64
6,200	8,400	4%	-126
8,400	10,800	5%	-210
10,800	13,900	6%	-318
13,900		6.9%	-443

SB407 - TY2006

Individual Income Tax
Current Law Tax Rate Table

0	2,400	2%	
2,400	4,700	3%	(24)
4,700	9,500	4%	(71)
9,500	14,200	5%	(166)
14,200	19,000	6%	(308)
19,000	23,700	7%	(498)
23,700	33,200	8%	(735)
33,200	47,400	9%	(1,067)
47,400	83,000	10%	(1,541)
83,000		11%	(2,371)

Individual Income Tax
Proposed Law Tax Rate Table

0	2,400	1%	
2,400	4,200	2%	-24
4,200	6,400	3%	-66
6,400	8,600	4%	-130
8,600	11,100	5%	-216
11,100	14,300	6%	-327
14,300		6.9%	-456

Prior to SB407, taxpayers who itemized their deductions were allowed to deduct in full any federal income taxes paid during the tax year. Under SB407, this deduction is limited to $5,000; married couples who file a joint income tax return will be allowed to deduct up to $10,000 in federal income taxes paid.

SB407 modifies the current credit allowed residents for income taxes paid to other states or countries by allowing in the credit the resident's distributive share of any income tax paid to another state or country by a partnership of which the resident is a partner.

Finally, SB407 institutes a new capital gains tax credit. Beginning with tax year 2005, taxpayers will be allowed a credit against their individual income tax liability equal to 1% of any capital gains reported for federal income tax purposes. Beginning with tax year 2007, this credit is increased to 2% of reported capital gains.

Limited Sales Tax

SB407 imposes a new limited sales tax on accommodations and campgrounds and rental vehicles. The rate is 3% on accommodations and campgrounds and 4% on rental vehicles. Sales by the federal government or nonprofit corporations are exempt form the tax. Purchases by the federal government are exempt from the tax.

Limited Sales Tax - Accommodations and Campgrounds

The limited sales tax applies to the same accommodations and campground charges as the existing lodging facility use tax, and is in addition to that tax. Unlike the lodging facility use tax, state agencies will not be reimbursed for limited sales tax paid on state employees' business travel.

In addition, lodging facilities and campgrounds were provided an exemption from the new tax until October 1, 2003 for any contracts entered into prior to the effective date of the act that provided for a guaranteed charge for accommodations or campgrounds.

Limited Sales Tax - Rental Vehicles

The limited sales tax applies to vehicles rented for 30 days or less without a driver or operator. Taxable vehicle rentals include light vehicles; motorcycles, motor-driven cycles and quadricycles; motorboats and sailboats; off-highway vehicles; and trucks, trailers, and semitrailers with gross vehicle weight of less than 22,000 pounds. The tax applies to charges for time and mileage on the vehicle and charges for optional insurance, additional drivers, and equipment rented along with the vehicle. It does not apply to charges for fuel, airport concession fees, intercity drop charges and other taxes.

Limited Sales Tax - Vendor Allowance

Accommodations and rental vehicle owners filing timely returns are allowed to retain a vendor allowance of 5% of collections with a maximum of $1,000 a quarter for each location.

Cigarette and Other Tobacco Products

Cigarette Tax – Tax Rate

Prior to SB407, cigarettes were taxed at the rate of 18¢ per pack of 20 cigarettes. SB407 increases this tax by 52¢ per pack to a total tax of 70¢ per pack, which represents a 289% increase in the tax on a pack of cigarettes.

Cigarette Tax – Wholesalers Discount

As part of the enforcement and administration of cigarette taxes, wholesalers must purchase “insignia” that must be affixed to cigarette packages, indicating that the taxes have been paid for those cigarettes. Prior to SB407, wholesalers were allowed discounts on the purchase price of insignia in order to compensate them for the costs associated with affixing insignia and precollecting the tax.

Discounts were set at 6% of the full face value of the insignia for the first 2,580 cartons purchased; at 4% for the next 2,580 cartons; and at 3% for purchases in excess of 5,160 cartons. Under SB407, these discount percentages are reduced to 1.66%, 1.11%, and 0.83%, respectively. These reduced percentages were designed to provide wholesalers with the same dollar amount of discounts as they received prior to SB407.

Cigarette Tax - Distribution

Prior to SB407, net taxes collected from the cigarette tax were distributed 73.04% to the state general fund, 15.85% to the long-range building program, and 11.11% to the credit of the Department of Public Health and Human Services for the operation and maintenance of state veterans’ nursing homes.

Under SB407, cigarette taxes are distributed 8.3%, or $2 million, *whichever is greater*, to Department of Public Health and Human Services; 4.3% to the long-range building program; and the remainder to the state general fund.

At a tax rate of 70¢ per pack, the Department of Public Health and Human Services is estimated to receive $3.323 million in fiscal 2004 and $3.224 million in fiscal 2005, under the above distribution scheme. However, language in SB407 provides that if money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds $2 million at the end of the fiscal year, the excess must be transferred to the state general fund. Based on this language, and also based on the actual appropriation provided to the Department of Public Health and Human Services in House Bill 2 for expenditures on veterans' nursing homes, it is anticipated that through the 2005 biennium about $3.4 million of excess fund balances will be transferred from the Department of Public Health and Human Services account to the state general fund.

<u>Other Tobacco Products</u>

Prior to SB407, all tobacco products other than cigarettes were taxed at the rate of 12.5% of the wholesale price of the product.

SB407 distinguishes "moist snuff" from other tobacco products and provides for separate treatment of moist snuff from other tobacco products. Under SB407, moist snuff is taxed at the rate of 35¢ an ounce, based on the net weight of the package as listed by the manufacturer. Currently, moist snuff is taxed at an equivalent rate of about 28¢ per ounce, so the new tax rate represents a 25% increase in the tax rate applied to moist snuff. It is estimated that moist snuff accounts for about 85% of all tobacco products other than cigarettes.

Under SB407, the tax rate on tobacco products other than cigarettes and moist snuff is increased from 12.5% of the wholesale price to 25% of the wholesale price, which represents a 100% increase in the tax on these products.

Prior to SB407, wholesalers of tobacco products other than cigarettes were provided a discount equal to 5% of the tax to cover the cost of collections and administration of the tax. Under SB407, this discount is reduced to 2.5% of the tax.

Previously, and under SB407, all revenue from the tax on tobacco products other than cigarettes is deposited 100% in the state general fund.

Effective Dates

SB407 provides for various effective dates for the various tax changes as follows:

- It applies to cigarette and tobacco products sold on or after May 1, 2003.
- It applies to accommodations and campground charges made on or after June 1, 2003. However, lodging facilities and campgrounds are exempt from the tax until October 1, 2003 for any contracts entered into prior to the

effective date that provide for a guaranteed charge for accommodations or campgrounds.

- It applies to the rental charges for rental vehicles made on or after July 1, 2003.
- Most changes to the individual income tax are effective January 1, 2005 (tax year 2005), but the credit allowed resident taxpayers for income taxes imposed by foreign states or countries on the resident's distributive share of any income from partnerships applies retroactively to tax years beginning after December 31, 2002 (TY2003).

Fiscal Impacts

The following table shows the impacts that SB407 has on revenues through the 2005 biennium.

SB407 - Impacts of Final Bill				
	Fiscal 2003	**Fiscal 2004**	**Fiscal 2005**	**Total FY2003-2005**
Revenue Enhancement				
Accommodations Tax - 3% increase	$710,000	$8,806,000	$9,084,000	$18,600,000
Rental Vehicle Tax - 4%	-	2,180,000	2,248,000	4,428,000
Other Tobacco Products Tax (12.5% to 25%; Moist Snuff @ 35 cents per oz.)	136,762	820,574	833,532	1,790,868
Cigarette Floor Tax	0	-	-	-
Cigarette Tax at 52 cents increase ($0.18 + $0.52 = $0.70)	4,901,385	29,408,311	28,351,795	62,661,491
TOTAL INCREASED TAX REVENUE	$5,748,148	$41,214,885	$40,517,327	$87,480,360
Revenue Reductions				
Income Tax Reform	0	$ -	$ (15,752,000)	$ (15,752,000)
DOR Tax Administration Cost	(1,625)	$ (8,683)	$ (8,235)	$ (18,543)
Agency Accommodations Tax Payments	(6,743)	$ (83,921)	$ (87,728)	$ (178,392)
TOTAL REVENUE REDUCTIONS	(8,368)	(92,604)	(15,847,963)	(15,948,935)
NET REVENUE IMPACT	**$5,739,780**	**$41,122,281**	**$24,669,364**	**$71,531,425**
Revenue Allocation				
General Fund	**$5,380,796**	**$38,995,333**	**$22,658,798**	**$67,034,927**
Special Revenue Accounts	**$358,983**	**$2,126,948**	**$2,010,566**	$4,496,497
TOTAL REVENUE	**$5,739,780**	**$41,122,281**	**$24,669,364**	**$71,531,425**

Because the tax increases provided for in the bill take effect ahead of the reduction in individual income taxes, the net effect is to increase revenues a total of $71.531 million through the end of the 2005 biennium. Of this amount, $67.035 million will accrue to the state general fund, and $4.496 million will accrue to state special revenue accounts. However, nearly all of the revenue accruing to state special revenue accounts eventually will be returned to the state general fund as discussed under the above section on distribution of cigarette taxes.

Long-Term Impacts

The following table shows the estimated long-term impacts of SB407 through fiscal year 2008, and the impact during the fiscal 2003-2005 period.

SB407 - Long-Term Impacts Based on Fiscal Note Provided on April 24, 2003

	Fiscal 2006	Fiscal 2007	Fiscal 2008	Total FY2003-2005
Revenue Enhancement				
Accommodations Tax - 3% increase	$9,370,000	$9,664,000	$9,968,000	$18,600,000
Rental Vehicle Tax - 4%	2,318,000	2,389,000	2,463,000	4,428,000
Other Tobacco Products Tax (12.5% to 25%; Moist Snuff @ 35 cents per oz.)	846,695	860,065	873,647	1,790,868
Cigarette Tax at 52 cents increase ($0.18 + $0.52 = $0.70)	27,333,235	26,351,268	25,404,578	62,661,491
TOTAL INCREASED TAX REVENUE	$39,867,930	$39,264,333	$38,709,225	$87,480,360
Revenue Reductions				
Income Tax Reform	$ (38,946,000)	$ (52,975,000)	$ (55,624,000)	$ (15,752,000)
DOR Tax Administration Cost	$ (8,647)	$ (9,079)	$ (9,533)	$ (18,543)
Agency Accommodations Tax Payments	$ (90,490)	$ (93,329)	$ (96,265)	$ (178,392)
TOTAL REVENUE REDUCTIONS	(39,045,137)	(53,077,408)	(55,729,798)	$ (15,948,935)
NET REVENUE IMPACT	**$822,793**	**($13,813,075)**	**($17,020,573)**	**$71,531,425**

In fiscal year 2006, tax increases are nearly offset by the reduction in income taxes resulting in a net revenue impact of just $823,000. In fiscal years 2007 and 2008 the reduction in income taxes more than offsets the other tax increases such that revenues are reduced a net $13.813 million in fiscal 2007, and $17.021 million in fiscal 2008.

The net impact over the period fiscal 2003 through fiscal 2008 is an increase in taxes of $41.521 million. However, the bill will continue to result in a net tax decrease each year after fiscal 2008.

Individual and Corporate Income Taxes

HB 452 Short Title: **Tax credit for developmentally disabled funding**
Primary Sponsor: Holly Raser

This bill creates a new developmental disability services account (Department of Public Health and Human Services), and provides for a credit against individual income or corporation license taxes equal to 30% of donations to the account. The credit is non-refundable, may not exceed $10,000 per taxpayer, and may not be carried forward or backward. Donations for which a credit is claimed may not be taken as a deduction.

Each year, the Department of Public Health and Humans Services is to provide the Department of Revenue with a list of taxpayers making donations to the account. Thirty percent of the money in the account must be transferred to the state general fund for reimbursement of the credit. At the end of each calendar year, the Department of Revenue is to determine the amount of tax credits claimed in the previous tax year and transfer any excess of funds in the account over credits claimed back to the developmental disability services account.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies retroactively to tax years beginning after December 31, 2002
Termination Date:	January 1, 2006

HB 616 Short Title: **Revise endowed philanthropy tax credit**
Primary Sponsor: Cindy Younkin

Prior to SB15 (2002 Special Session), the qualified charitable endowment tax credit was equal to 40% of the contribution up to a maximum credit of $10,000 for “planned” gifts, and 20% of the contribution up to a maximum credit of $10,000 for “outright” gifts. Sections 1, 3, 5, and 7 of SB15 changed these parameters to provide for credits of 30% up to $6,600 (planned) and 13.3% up to $6,600 (outright) through June 30, 2003. Sections 2, 4, 6, and 8 of SB15 changed these parameters to 50% up to $13,400 (planned) and 26.7% up to $13,400 (outright) for the period July 1, 2003 through April 30, 2004.

This bill repeals Sections 2, 4, 6, and 8 of Chapter 24, Special Laws of August 2002 (SB15), and allows Sections 1, 3, 5, and 7 to terminate June 30, 2003. This repeals the provisions of current law that would have increased the qualified charitable endowment tax credit to 50% of value up to a maximum of $13,400 for planned gifts, and 26.7% of value up to a maximum of $13,400 for outright gifts, for the period July 1, 2003 through April 30, 2004. As a result, the tax parameters of this credit will return to their pre-2002 session levels of 40% up to $10,000 (planned gift) and 20% up to $10,000 (outright gift) beginning July 1, 2003.

Effective Date: Effective on passage and approval

HB 721 Short Title: **Revise "water's edge" election for corporate taxation**
Primary Sponsor: Ron Erickson

Generally speaking, this bill changes the manner in which the state taxes corporations electing to file under the "water's edge" method of income apportionment by requiring that the corporation's return must include the income and apportionment factors for any corporation that is in a unitary relationship with the filing corporation and that also is incorporated in a "tax haven." The bill further provides that any income shifted to a tax haven, to the extent that it is otherwise taxable, must be considered income subject to apportionment for state tax purposes.

Based on the fiscal impacts identified in the fiscal note for the bill, for fiscal year 2005 $375,000 of the tax collected from water's edge corporations must be deposited in a state special revenue account to the credit of the Department of Public Health and Humans Services to be used for matching funds for Medicaid health services; the balance is to be deposited in the state general fund.

Biennially, the Department of Revenue is required to provide the Revenue and Transportation interim committee with an update of all countries that may be considered a tax haven under the provisions of the bill.

Effective Date: Effective October 1, 2003
Applicability Date: Applies to tax years beginning after December 31, 2003

SB 121 Short Title: **Revise taxation of "pass-through" entities**
Primary Sponsor: Bill Glaser

House Bill 143 – 2001 Legislative Session

HB143, passed during the 2001 Legislative Session, generally revised and clarified the reporting of income for pass-through entities (PTEs) and owners. It clarified that partnerships, S corporations, and other forms of "disregarded entities" are not subject to either individual or corporate income taxes; but also provided that partners, shareholders, and other owners of partnerships, S corporations, or other "disregarded entities", whether resident or nonresident, that have Montana source income are required to include their distributive shares of income when filing a Montana income tax return. Any PTE receiving Montana source income was required to file an information return providing the names of owners, each owner's distributive share of Montana source income, and other pertinent information required by the Department of Revenue. HB143 contained an enforcement mechanism (consent agreements/composite returns/or withholding) that applies only to *nonresident individuals*.

PTEs could file "composite returns," and paying a composite tax on behalf of all participants, where "participants" included nonresident individuals consenting to be included in the composite filing. The bill detailed the PTE's responsibilities in this area, and provided the methodology for determining the tax liability.

For those nonresident individuals not included in a composite return, PTEs were allowed to file a "consent agreement" signed by the owner under which the owner consented to file a return, timely pay all taxes due the state, and be subject to the personal jurisdiction of the state for the collection of taxes.

Finally, for those nonresident individuals not included in either a composite return or a consent agreement, the PTE was required to "withhold" tax on the owner's distributive share of Montana-source income calculated at the highest marginal tax rate in effect at the time of the withholding. PTEs were entitled to recover these payments from the nonresident individual.

Senate Bill 121

HB143 included an enforcement mechanism for the taxation of PTE Montana-source income with respect to resident and non-resident individuals. However, current law does not specifically address the enforcement mechanism for "tiered" pass-through entities; that is, PTEs that are owned by other PTEs. SB121 essentially extends the concepts and options provided for in HB143 for non-individual owners of entities specifically to owners that are corporations and themselves PTEs. These entities would be provided with the same options provided individuals, including 1) filing of composite returns; 2) filing of consent agreements (C corporations only, as PTE owners are not “taxpayers”); or 3) withholding. The bill expressly extends application of the state’s tax laws through intervening PTEs to the ultimate taxpayer(s).

Amounts remitted through withholding for an individual or a C corporation would be credited directly to their accounts. PTEs making remittances for PTE owners (i.e., a PTE owning an interest in another PTE) would be provided with a tax credit equal to the amount of the remittance. To protect taxpayers from the possibility of double taxation, the distributive share of this credit would be passed through successive PTEs until it reached the ultimate individual taxpayer, who would be entitled to a “refundable” credit equal to the distributive share of the initial credit.

Effective Date: Effective October 1, 2003

SB 408 Short Title: **Adjustment to state income tax for certain health care professionals**

Primary Sponsor: Linda Nelson

This bill would allow certain individual income taxpayers to exclude up to $5,000 of income from taxation. In order to be eligible for this exclusion the taxpayer must:

a) be a health care professional licensed in Montana as provided in Title 37;
b) be serving a significant portion of a designated geographic area, special population, or facility population in a federally designated health profession shortage area, a medically underserved area or population or a federal nursing shortage county as determined by the secretary of health and human services or by the Governor;
c) have had a student loan incurred as a result of health-related education; and
d) have received a loan payment made under a qualifying loan repayment program as described in the bill.

Effective Date: Effective on passage and approval
Applicability Date: Applies to tax years beginning after December 31, 2002

SB 480 Short Title: **Revise tax laws to clarify taxation of dividends**
Primary Sponsor: Jerry Black

During the course of the 2003 Legislative Session, it became apparent that the federal government was going to provide for some form of tax relief through either an exclusion of dividend income, or a preferential tax rate for dividend income. Because Montana ties to the definition of federal adjusted gross income for state individual income tax purposes, providing for an exclusion of dividend income at the federal level would flow through to the state as well, thereby reducing future state tax revenues.

To prevent the flow-through loss of state revenue, SB480 provided that any exclusion of dividend income for federal tax purposes must be added back and included in income for state tax purposes.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to tax years beginning after December 31, 2002

SB 484 Short Title: **Empowerment zone financing act**
Primary Sponsor: Jeff Mangan

This bill provides for the creation of "empowerment zones" and provides tax credits to employers hiring new employees within these zones. The empowerment zones provided for in the bill can be created only by resolution of the governing body of a county, municipality, or consolidated local government. Empowerment zones may be created only in areas in which the average unemployment or poverty rate exceeds 150% of the statewide unemployment or poverty rate.

To be eligible for the tax benefits provided for in the bill, the owner of a business in an empowerment zone must:

a) conduct a business in the zone in which retail sales of goods other than those manufactured by the business do not exceed 10% of the business conducted; and
b) increase employment in the zone with employees who are employed for at least 1,750 hours each year in permanent employment intended to last at least three years and who were not employed by the business in the preceding 12 months;
c) ensure that at least 35% of the new employees are residents of the county in which the zone is located; and

d) provide a health benefit plan for new employees in accordance with 33-22-1811(3)(d), MCA of which at least 50% of the premium is paid by the business.

Employers must apply for certification to claim the tax credits provided for in the bill with the Department of Labor and Industry. Certified employers are entitled to a tax credit against individual income taxes, corporation license and income taxes, and insurance premiums taxes equal to $500 for each new employee in the first year of employment; $1,000 in the second year of employment; and $1,500 in the third year of employment. If the amount of tax credit exceeds the employer's tax liability, the credit may be carried forward 7 years, and carried back 3 years.

Effective Date: Effective October 1, 2003.

Property Tax

SB 65 Short Title: **Revise veteran's property tax and vehicle fee benefits**
Primary Sponsor: Glenn Roush

The bill affects the property tax exemption for disabled veterans and the vehicle registration fee for veterans.

The bill expands the requirements used by the Department of Revenue to determine eligibility for the disabled or deceased American veteran (DAV) property tax exemption. The bill also changes the income thresholds for qualification for the exemption. Prior to the bill, all eligible disabled veterans received 100% exemption from property taxes if their income level was at or below $30,000 single or $36,000 for married status. These income levels for 100% exemption remain the same but are now subject to an annual adjustment for inflation. In addition, those qualifying disabled veterans with an income level above the 100% exemption level will now receive a partial property tax exemption. The partial exemption, also subject to an annual adjustment for inflation, is based on income and is in the form of a reduced tax rate. The following table displays the base income levels and tax rate adjustment:

Income Level			Percentage Multiplier
Single	Married	Surviving Spouse	
$0 - $30,000	$0 - $36,000	$0 - $25,000	0%
$30,001 - $33,000	$36,001 - $39,000	$25,001 - $28,000	20%
$33,001 - $36,000	$39,001 - $42,000	$28,001 - $31,000	30%
$36,001 - $39,000	$42,001 - $45,000	$31,001 - $34,000	50%

The residence and the lot on which the residence is built are exempt from property taxation. The property is subject to any local government fees and special assessments for services.

In addition, under SB65 the $5 fee in lieu of all other fees and taxes paid by certain disabled veterans on a motor vehicle is eliminated.

Effective Date: Effective January 1, 2004

SB 155 Short Title: **Clarify calculation of Class 8 property tax rate reduction trigger**
Primary Sponsor: Mike Taylor

SB155 makes three changes dealing with the calculation of the class 8 trigger mechanism.

- SB155 clarifies that the measure of Montana wage and salary income to be used is the Bureau of Economic Analysis (BEA) fall SA07 data series. This data series is published once each year in the fall.
- SB155 makes it clear that the calculation of the trigger is to be made by October 30 of each year. This is after the fall SA07 data is available.
- SB155 requires that the time between calculation of the trigger and implementation of any tax rate reduction be 14 months. Prior to SB155, state and local governments would budget for, and set mills for, a fiscal year not knowing if the trigger would be hit. By requiring that the calculation be made 14 months prior to implementation, local governments and schools are allowed sufficient time to plan for the impact of a rate reduction on business equipment

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to the calculations used to determine if the trigger is to be implemented in tax year 2004 and later tax years

SB 159 Short Title: **Tax exemption for certain railroad property leased to nonprofit organization**
Primary Sponsor: Royal Johnson

SB159 provides a property tax exemption for certain property that is owned by a railroad and leased annually for less than $100 by a nonprofit organization or a government entity. The property must be located on a railroad right-of-way. If the property includes a building, it must have been constructed prior to the year 2000. The property must be used for purely public charitable purposes. The property is still subject to special improvement fees and assessments.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies retroactively to tax years beginning after December 31, 2002

SB 320 Short Title: **Revise local government laws concerning tax increment base value**
Primary Sponsor: Jon Tester

This bill allows tax increment finance districts (TIF district) under certain criteria a one-time opportunity to adjust downward the base value of the tax increment finance district. The adjustment of the base value cannot be made arbitrarily. Any adjustment must be based on loss of taxable value resulting from a statutory change. The only impacted TIF district is the district in Fort Benton.

In recent years the incremental taxable values of TIF districts have been reduced as a result of statutory change. For example, SB200 of the 1999 regular session reduced the tax rate on business equipment from 6% to 3%. This resulted in a large decrease in the incremental taxable values of TIF districts. The legislature recognized that their actions would do this and created legislation that reimbursed TIF districts for the loss. However, only those TIF districts created prior to 1998 are reimbursed. TIF districts created after 1998 are impacted by statutory change resulting in loss of incremental taxable value but are not reimbursed for that loss.

Effective Date: Effective on passage and approval
Termination Date: Terminates June 30, 2003

SB 461 Short Title: **Mitigate effects of cyclical reappraisal**
Primary Sponsor: Bob Story

<u>Change in the class 4 tax rate and class 4 exemption amounts</u>

Prior to SB461, statute required that an increase in assessed value be phased in over a six-year period; for the tax rate to remain constant at 3.46%; for the exemption for residential class 4 property to remain at 31%; and for the commercial class 4 exemption to remain at 13%. SB461 retains the six-year phase-in of reappraisal values, but further mitigates the effects of reappraisal by increasing exemption amounts for residential and commercial class 4, while also reducing the tax rate on class 3 and 4 property from 3.46% to 3.01% over a six-year period.

The table below has the new tax rates and exemption amounts that are contained in SB461.

SB461 Tax Rates for Class 3 and 4 Property
Exemption Percentages for Class 4 Residential and Commercial

Tax Year	Class 3 & 4 Tax Rate	Class 4 Exemption Percentages Residential	Class 4 Exemption Percentages Commercial
2002	3.46%	31.00%	13.00%
2003	3.40%	31.00%	13.00%
2004	3.30%	31.40%	13.30%
2005	3.22%	32.00%	13.80%
2006	3.14%	32.60%	14.20%
2007	3.07%	33.20%	14.60%
2008	3.01%	34.00%	15.00%

Implementation of the extended property tax assistance program

SB461 allows additional property tax assistance for owners who meet certain property tax increases and income requirements. Residential properties that have an increase in taxable value of at least 24%, and a tax liability increase of $250 or more, are eligible for the additional tax assistance if the property owner's income is below $75,000. Under the income requirements set in the bill, the following taxable value caps apply:

- If eligible residence's household income is less than $25,000 per year, the taxable value increase is capped at 24% over six years.
- If eligible residence's household income is between $25,000 and $50,000 per year, the taxable value increase is capped at 30% over six years.
- If eligible residence's household income is between $50,000 and $75,000 per year, the taxable value increase is capped at 36% over six years.

Interim study committees

SB461 authorized two interim committees to study specific tax issues facing Montana.

The interim Property Tax Reappraisal Study Committee is to study the effects of cyclical reappraisal and methods for mitigating the changes in taxable value caused by cyclical reappraisal.

The committee is composed of:

- Four Senators, two from each political party appointed by the Committee on Committees, and
- Four Representatives, two appointed by the Speaker of the House and two appointed by the House Minority Leader.

The interim Tax Reform Study Committee is to study tax reform that may include revising the existing tax structure and considering alternative forms of taxation. The purpose of the committee is to conduct a comprehensive examination of taxation in Montana. The committee shall develop an inventory of taxes imposed at the state and local level, provide analysis that evaluates existing taxes, examine tax expenditures to assess the ongoing merit of each expenditure, and examine alternative methods of taxation from existing sources as well as from new sources of revenue.

The committee is composed of:

- Four Senators, two from each political party appointed by the Committee on Committees;
- Four Representatives, two appointed by the Speaker of the House and two appointed by the House Minority Leader;
- One representative of small business appointed by the Governor;
- One representative of large industry appointed by the Governor;
- One representative of agriculture appointed by the Governor; and
- One representative of labor appointed by the Governor.

Both committees are required to submit written reports to the Montana Legislature not later than December 1, 2004. The report will include recommendations and proposed legislation, if any is necessary, to mitigate the effects of cyclical reappraisal and to provide tax reform in Montana.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies retroactively to tax years beginning after December 31, 2002

Natural Resource Taxes

HB 748 Short Title: **Simplification of oil and natural gas tax distribution**
Primary Sponsor: Ronald Devlin

This bill changes the formulas for allocating oil and gas production tax. It allocates fixed percentages of revenue to state and local funds based on the actual allocations in 2000 and 2001.

Under prior law, oil and gas production tax was divided between state funds and counties using a series of complex formulas. The revenue that was distributed to the counties was allocated among entities that levy property tax mills, partly in proportion to the previous year's mill levies and partly in proportion to 1990 mill levies. Part of the revenue that was distributed to the counties was returned to the state because the state levies 95 mills for statewide school funding and 6 mills for the university system.

This bill allocates a fixed percentage of collections in each county to that county. Each county is to distribute funds in fixed proportions to school districts, the countywide elementary retirement fund, the countywide high school retirement fund, the countywide transportation fund and the county. The county's share of funds may be used for any county government purpose. No funds will be returned to the state.

The Board of Oil and Gas Conservation receives the revenue collected by the privilege and license tax imposed by section 82-11-131, MCA to fund the board. The coal bed methane protection account, the reclamation and development grants account, the orphan share account, and the university system receive fixed percentages of the revenue remaining after the allocations to counties and the Board of Oil and Gas Conservation.

Remaining revenue is allocated to the general fund. The allocation to the general fund will be approximately equal to the amount that was directly allocated to the general fund under prior law plus the amount that was allocated to counties and then returned to the general fund because of the 95 mills.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to taxes on oil and natural gas production after December 31, 2002

SB 460 Short Title: **Revise definitions applicable to metal mines license tax**

Primary Sponsor: Bob Story

This bill provides a definition of "basic treatment and refinery charges" that may be deducted in calculating metal mines license tax. This definition is broader than the department's prior interpretation.

Concentrate is taxed at 1.81%. Gold, silver or platinum group metals that are sold as products of partial or complete smelting or refining are taxed at 1.6%. Before passage of this bill, section 15-37-103(3), MCA specified that the 1.6% rate applied to dore, bullion or matte, which are the general categories of partially or completely smelted gold, silver or platinum group metals. This bill adds the phrase "or another form of processed concentrate."

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to metal mine production after December 31, 2003

Motor Vehicle Taxes

Note: The 58th Legislative Assembly passed many bills relating to motor vehicles. Many of these bills dealt with the administration of motor vehicle laws by the Department of Justice. The following descriptions of selected motor vehicle bills reflect only those aspects that affect the Department of Revenue. For the most part, this will include aspects that deal with the administration of the county collections report, general fund transfers to state agencies that rely on counts of motor vehicles from the Department of Justice database, and motor vehicle tax and fee changes that impact the state general fund, or state special revenue accounts.

HB 261 Short Title: **Increase municipal debt finance limits – increase vehicle fees to repay loans**
Primary Sponsor: Dick Haines

Most of the amendments to HB261 were rendered moot by coordination language in HB538. The remaining sections of this bill increased the bonding and loan limits for the Board of Investments and the Department of Justice to accommodate the funding needed for the new motor vehicle information technology system, and increased the appropriation from the capital projects fund to the Department of Justice from $4.5 million to $22.5 million.

Other sections increased the fee for obtaining a duplicate copy of a certificate of ownership from $3 to $10, with $5 of the new fee going to the state general fund and $5 going to the motor vehicle information technology account; and provided that $5 of each fee received under 61-3-203, MCA and 61-3-204, MCA goes to the motor vehicle information technology system account. These same amendments were also provided for in HB538.

Effective Date: Effective July 1, 2003
Applicability Date: Applies retroactively to January 1, 2002

HB 538 Short Title: **Revise laws on motor vehicle titling and registration**
Primary Sponsor: Allen Rome

This bill generally revises the laws governing certificates of title and registration of certain motor vehicles. The vast majority of this bill relates to the administration of motor vehicle titling and registration laws and procedures, and has little or no impact on fees and the county collections report. Significant sections impacting the county collections report include:

a) Section 83 (coordination instructions) amends 61-3-103, MCA to provide for a new $10 fee for requesting issuance of a new certificate of title after a security interest or lien has been satisfied. The $10 fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550.
b) Section 83 (coordination instructions) amends 61-3-203, MCA to increase the fee for applying for an original certificate of title from $5 to $10. Of the $10 fee, $5 must be deposited in the state general fund; and $5 must be deposited in the motor vehicle information technology system account.
c) Section 83 (coordination instructions) amends 61-3-204, MCA to increase the fee for a copy of a certificate of title from $3 to $10. Of the $10 fee, $5 must be deposited in the state general fund; and $5 must be deposited in the motor vehicle information technology system account.
d) Section 83 (coordination instructions) amends 61-3-303, MCA to provide that persons registering their vehicles may make a donation of $1 or more to promote education on, support for, and awareness of traumatic brain injury.

Effective Date: Effective January 1, 2004
Applicability Date: Applies to motor vehicle certificates of title and registrations on or after January 1, 2004

HB 559 Short Title: **Registration decal as evidence of fee payment for vehicles and vessels**
Primary Sponsor: Steven Gallus

HB559 is one of the primary motor vehicle bills of the 2003 legislative session in that it provided for the mandatory permanent registration of certain motor vehicles, motorboats, sailboats, personal watercraft, and snowmobiles. This will have a significant impact on general fund revenue flows in future years.

The bill also impacted the process for providing general fund transfers to state agency accounts as follows:

a) **Junk Vehicle Program**. Provides for a transfer to this account in the amount of $5 for each permanently registered light vehicle in only the year in which the vehicle is permanently registered (currently, the law provides for a transfer amount of $1 for each passenger car or truck registered for licensing).

b) **Noxious Weed Program**. Provides for a transfer of $1 (current amount) in fiscal year 2006, and in each subsequent year $2.75, for each off-highway vehicle; includes motor homes in the current $1.50 transfer for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, or vehicle weighing more than 1 ton; provides for a transfer of $1.50 in fiscal year 2006 and $3.65 in each subsequent year for each motorcycle and/or quadricycle; and provides for a transfer of $7.50 for each permanently registered light vehicle beginning with vehicles registered on or after January 1, 2004.

c) **Department of Fish, Wildlife and Parks**. Provides for a transfer of $2.50 (current amount) in fiscal year 2006 and $14.50 in each subsequent year for boats; $5 (current amount) in fiscal year 2006 and $19 in each subsequent year for snowmobiles; $5 (current amount) in fiscal year 2006 and $13.25 in each subsequent year for off-highway vehicles; and to the state special revenue fund established in 23-1-105, MCA the bill increases the current $3.50 in fiscal year 2006 to $8 in each subsequent year, but excludes campers from the count of vehicles on which the transfer is based.

d) **Highway Patrol Retirement**. Excludes motorcycles, quadricycles, trailers, and permanently registered light vehicles from the 25¢ transfer for each motor vehicle registered to the highway patrol account.

e) **Senior Citizens/Persons with Disabilities Account**. Provides for a transfer of $1.25 for each permanently registered vehicle beginning with calendar year 2004.

Other pertinent amendments include:

Section 7 of the bill amends 23-2-512, MCA to provide that the fee for “application for number” for boats is $3.50 in CY2004 (current amount) and $15.50 in each subsequent year. This fee, which is deposited in the state general fund, is paid once upon permanent registration, and again when the boat is transferred to another owner.

Section 11 (amending 23-2-516, MCA) provides that the fee in lieu of tax on certain boats is a one-time fee, and repeals the fee on motorized canoes and motorized rubber rafts.

Section 12 (amending 23-2-517, MCA) revises the fee in lieu of tax schedule for certain boats effective CY2004. These fees are deposited in the state general fund.

Section 18 (amending 23-2-616, MCA) provides that the fee for “application for registration” for snowmobiles is $6.50 in calendar year 2004 (current amount) and $20.50 in each subsequent year. This fee, which is deposited in the state general fund, is paid once upon permanent registration, and again when the snowmobile is transferred to another owner.

Section 20 (amending 23-2-626, MCA) provides for a one-time fee in lieu of tax on snowmobiles of $20 in CY2004 and $40 in each subsequent year. This fee is deposited in the state general fund.

Section 22 (amending 23-2-803, MCA) provides for a one-time fee in lieu of tax on off-highway vehicles of $20 in CY2004 and $40 in each subsequent year. This fee is deposited in the state general fund.

Section 28 (amending 61-3-303, MCA) provides that FILTs, taxes, and fees on or collected from the registration of travel trailers; motorcycles or quadricycles (other than a motorcycle or quadricycle with special license plates issued under section 1 of HB767); and trailers, pole trailers, or semitrailers with a declared weight of less than 26,000 pounds are one-time fees, paid again only upon transfer of ownership.

Beginning in calendar year 2005, Section 33 (amending 61-3-321, MCA) increases registration fees on:

- light vehicles under 2,850 pounds from $13.75 to $17;
- off-highway vehicles from $9 to $19.25;
- light vehicles over 2,850 pounds from $18.75 to $22;
- motorcycles and quadricycles from $9.75 to $11.25;
- recreational vehicles from $3.50 to $9.75; and
- the additional “safety fee” on motorcycles or quadricycles from $5 to $16.

Sections 38/39 (amending 61-3-521 and 61-3-523, MCA) repeal the fee in lieu of tax on campers, and provide for a one-time fee on motor homes of:

- under 16 feet in length of $25 in calendar year 2004 and $50 in subsequent years;
- 16 feet or longer of $65 in calendar year 2004 and $130 in subsequent years.

Section 41 (amending 61-3-527, MCA) provides for a one-time fee in lieu of tax on motorcycles and quadricycles of $20 in calendar year

2004 and $40 in subsequent years; and further provides that a motorcycle or quadricycle with special license plates issued under section 1 of HB767 will pay a fee in lieu of tax based on the old schedule of fees for motorcycles and quadricycles. Section 41 also reduces the additional fee at the time of registering a motorcycle or quadricycle for highway patrol retirement from $2 to $1.25 and clarifies that this, too, is a one-time fee to be deposited in the state general fund.

Section 42 provides for a new schedule of fees in lieu of taxes for trailers, pole trailers, and semitrailers less than 26,000 gross vehicle weight of:

- $25 in calendar year 2004 and $50 in subsequent years for trailers under 6,000 pounds; and
- $65 in calendar year 2004 and $130 in subsequent years for trailers 6,000 pounds or more.

In addition, Section 42 provides for an additional one-time fee of $1.25 on permanent registrations of trailers, semitrailers, or pole trailers for deposit in the state general fund. DOJ is required to transfer these fees to the state special revenue account for highway patrol retirement.

Effective Date: Effective January 1, 2004
Applicability Date: Applies to vehicles and vessels registered on or after January 1, 2004

HB 767 Short Title: **Revise motor vehicle and driving record laws**
Primary Sponsor: John Brueggeman

This bill allows the owner of a motorcycle or a quadricycle to obtain a special license plate bearing a design recognizing the efforts of one or more Montana-based organizations that grant wishes to chronically or critically ill Montana children. The owner must pay an administrative fee of $5 (to be deposited in the state general fund) and a $20 donation (to be deposited in a state special revenue account). County treasurers are to remit both fees to the Department of Revenue for deposit in the general fund and state special revenue account.

Effective Date: Effective July 1, 2003 (except for special motorcycle plates effective January 1, 2004)

SB 112 Short Title: **Fund search and rescue with certain fees**
Primary Sponsor: Bea McCarthy

Note: SB112 is coordinated with HB559, which voided most of the amendments made to SB112. HB559 provides that if HB559 and SB112 are both passed and approved, then the amendments to 23-2-517, 23-2-616, and 23-2-803, MCA in SB112 are void. These sections provided for a new "search and rescue fee." Following sections discuss changes not voided by HB559.

Section 1 (NEW SECTION) creates a new "search and rescue" state special revenue account and provides that, among other things, funds transferred pursuant to 15-1-122(3)(g), MCA must be deposited in the account.

Section 2 (amending 15-1-122, MCA; fund transfers) provides for a new fund transfer to the search and rescue account of $2 for:

- each vessel subject to the search and rescue surcharge in 23-2-517, MCA (boats);
- each snowmobile subject to the search and rescue surcharge in 23-2-615(1)(b) and 23-2-616(3), MCA; and
- each off-highway vehicle subject to the search and rescue surcharge in 23-2-803, MCA.

Section 4 (amending 23-2-615) increases the fee for application for a nonresident temporary snowmobile permit from $6 to $6.50 and provides that 50¢ of the fee is a search and rescue surcharge. The entire new fee is deposited in the state general fund.

Section 8 increases certain fees collected directly by the Department of Fish, Wildlife and Parks, a portion of which will now go to the new state special revenue account for search and rescue.

Note: HB559 voids the amendments to 23-2-517, 23-2-616, and 23-2-803, MCA in SB112, which provided for a new search and rescue fee, but HB559 amendments to 23-2-517, 23-2-616, and 23-2-803, MCA reference no such new fee. A legal opinion issued by the Department of Revenue determined that there could be no transfer to the state special revenue account for the search and rescue fee, since it no longer is referenced in statute after the coordination instructions between HB559 and SB112.

Effective Date: Generally effective January 1, 2004

SB 118 Short Title: **License plates – delay new issue, change costs, generic specialty plates**

Primary Sponsor: Bob DePratu

This bill deals with the issuance of new number plates, and generic specialty license plates.

New Number Plates

Section 2 (amending 61-3-321, MCA) increases the fee for each set of new number plates provided for under 61-3-332(2), MCA from $2 to $5 (state general fund money).

Section 3 (amending 61-3-332, MCA) requires the Department of Justice to create a new design for number plates for issuance after December 31, 2005; and further provides that beginning January 1, 2006 new plates will be issued after existing plates have been used for a minimum period of 4 years.

Section 4 (amending 61-3-333, MCA) increases the fee for duplicate plates from $2 to $5.

Section 6 (amending 61-3-465, MCA) increases the initial application and manufacturing fee for *collegiate plates* from $2.50 to $5 (state general fund money).

Generic Specialty License Plates (GSLPs)

Section 12 (amending 61-3-478, MCA) increases the sponsor fee for generic specialty license plates from $1,200 to $4,000. This fee is used to reimburse the Department of Corrections for the prison industries training program for the initial costs of the generic plates.

Section 13 (amending 61-3-479, MCA) provides that if the sponsor of a generic specialty license plate is not listed on the county collection report published by the Department of Revenue as required under 15-1-504, MCA as of the initial distribution date for the sale of the sponsor's plates, the Department of Justice will require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person eligible to receive the plates.

Section 14 (amending 61-3-480, MCA) increases the administrative fee for generic specialty license plates from $10 to $15. The county treasurer is to deposit $5 of this fee in the county general fund. The remaining $10 (previously $8), and any donation received by the county treasurer for an initial issuance or any renewals of GSLPs, is to be transmitted to the Department of Revenue, along with a schedule showing the number and type of GSLPs issued and total donations received for each plate. The $10 is to be deposited in the state general fund. Each month, the Department of Revenue will distribute to the GSLP liaison an amount equal to the total donations credited to the plate sponsor and transferred to the department by county treasurers during the preceding month.

Section 16 (amending 61-3-562, MCA) provides that the following types of plates may not be permanently registered:

- Montana national guard plates;
- Reserve armed forces license plates;
- Person with disability plates;
- Amateur radio plates;
- Collegiate license plates; and
- Generic specialty license plates.

Effective Dates: Sections pertaining to new number plates are effective January 1, 2004; sections pertaining to generic specialty license plates are effective July 1, 2003.

SB 336 Short Title: **Implement recommendations of state parks future committee**
Primary Sponsor: Dale Mahlum

SB336 provides for a new method of funding state parks by implementing a new motor vehicle fee, and providing for general fund transfers to a state special revenue account based on a count of vehicles paying the new fee for funding state parks.

Section 1 (amending 15-1-122, MCA) provides for a new fund transfer to the state special revenue account established in 23-1-105, MCA of $4 for each passenger car or truck less than 8,001 pounds gross vehicle weight registered for licensing pursuant to 61-3-321(10)(a), MCA.

Section 2 (amending 23-1-105, MCA) provides that persons who pay the new $4 fee at the time of registration for state parks are not required to pay a day-use fee for access to state parks.

Section 3 (amending 61-3-321, MCA) provides for the new $4 state parks fee at the time of registration of a light vehicle or truck less than

8,001 pounds gross vehicle weight to be deposited in the state general fund. However, a person may make a written election to opt out of paying this fee at the time of registration.

Effective Date: January 1, 2004

SB 401 Short Title: **Revise membership and duties concerning veteran's affairs**
Primary Sponsor: Mike Wheat

This bill creates a new veteran's services state special revenue account, and provides for new means of funding the account.

Section 5 of the bill provides that the Board of Veteran's Affairs may sponsor a generic specialty license plate designed as a patriotic salute to Montana's military veterans. Plates may be purchased by paying the administrative fee charged pursuant to 61-3-480(1), MCA and a $15 surcharge for each original set of plates and upon each renewal. The surcharge must be remitted as provided for in 61-3-480, MCA (via county collections report), and deposited in the veteran's services account.

Section 12 (amending 15-1-122, MCA) provides for a fund transfer of 50¢ a year for each vehicle subject to the new fee provided for in 61-3-321(7), MCA for deposit in the veteran's services account.

Section 13 (amending 61-3-321, MCA) provides for a new fee of 50¢ a year for each registration of "a vehicle" when the vehicle is registered or reregistered, for deposit in the state general fund. Vehicles specifically exempt from this fee include:

- trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement;
- off-highway vehicles registered pursuant to 23-2-817, MCA; and
- vehicles bearing ex-prisoner of war plates.

Effective Date: January 1, 2004

Miscellaneous Taxes

HB 96 Short Title: **Eliminate advanced telecommunications infrastructure tax credit**
Primary Sponsor: Ronald Devlin

The 1999 Montana Legislature enacted the retail telecommunications excise tax and allowed a credit against the tax for investments in advanced telecommunications infrastructure. This bill repeals the credit.

The credit was to sunset July 1, 2004. The 2001 Montana Legislature suspended the credit for the period July 1, 2001 through June 30, 2003. Without this bill, telecommunications companies would have been able to apply for the credit for investments made during fiscal 2004.

Effective Date: Effective on passage and approval

HB 705 Short Title: **Increase utilization fee on nursing facility bed days**
Primary Sponsor: Edith Clark

This bill increases the nursing facility utilization fee imposed by Title 15, Chapter 60, MCA. Through the end of fiscal 2003, the fee is $2.80 per bed day. This bill increases the fee to $4.50 per bed day in fiscal 2004 and $5.30 per bed day beginning in fiscal 2005.

Through fiscal 2003, all collections are deposited in the general fund. Beginning in fiscal 2004, $2.80 per bed day is to be deposited in the general fund. Collections over this amount, $1.70 per bed day in fiscal 2004 and $2.50 per bed day beginning in fiscal 2005, are to be deposited in the nursing facility utilization fee account. This is a state special revenue account to be used by Department of Public Health and Human Services to increase Medicaid payments to nursing homes.

Effective Date: July 1, 2003
Applicability Date: Applies to tax years beginning after December 31, 2002

HB 722 Short Title: **Provider tax on intermediate care facilities**
Primary Sponsor: Edith Clark

This bill imposes a utilization fee on intermediate care facilities for the mentally retarded. The fee per bed day is 5% of the average cost per bed day. Average cost is to be calculated quarterly. The fee is to be allocated 30% to the general fund and 70% to the prevention and stabilization account, a state special revenue fund to pay costs of the Department of Public Health and Human Services.

The fee initially will be paid by two facilities, the Montana Developmental Center in Boulder and the Eastmont Human Services Center in Glendive. However, HB727 closes Eastmont at the end of 2003.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to tax years beginning after December 31, 2002

HB 743 Short Title: **Include mental health nursing care center in bed tax**
Primary Sponsor: Edith Clark

This bill makes the Montana Mental Health Nursing Care Center in Lewistown subject to the nursing facility utilization fee imposed by Title 15, Chapter 60, MCA. HB705 increased this fee to $4.50 per bed day in fiscal 2004 and $5.30 per bed day beginning in fiscal 2005.

Effective Date: July 1, 2003

SB 387 Short Title: **Conform retail telecommunication excise tax to federal mobile sourcing act**
Primary Sponsor: John Cobb

This bill changed the sourcing rules for the retail telecommunications excise tax to conform to the federal Mobile Telecommunications Sourcing Act and the Streamlined Sales Tax Agreement. All other states had already amended their telecommunications taxes to conform to the federal Mobile Telecommunications Sourcing Act.

Before the Mobile Telecommunications Sourcing Act, states had varying, and sometimes conflicting, rules about taxing cell phone roaming charges. Most states taxed all cell phone calls originating in the state. Montana taxed cell phone calls billed to a Montana address and originating or terminating in the state.

The federal Mobile Telecommunications Sourcing Act went into effect August 1, 2002. It requires that mobile telecommunications services only be taxed by the state and local jurisdiction where the customer's "place of primary use" (home or business address) is located.

This bill makes the retail telecommunications excise tax apply to cell phone roaming charges for calls that Montana customers make outside the state, even if they are not to a Montana phone. In most cases, these calls were taxed by another state before passage of the Mobile Telecommunications Sourcing Act.

This bill also extends the retail telecommunications excise tax to calls made in Montana but charged to the customer's credit card or home phone with an out-of-state address. In theory, these calls were not previously taxable. In practice, these calls were being taxed, because the telecommunications company is paid by a third party, such as a credit card company, and does not know the customer's billing address.

Effective Date:	Effective July 1, 2003
Applicability Date:	Applies to bills issued on or after August 1, 2003

DOR-Sponsored Legislation

HB 58 Short Title: **Standardize relationship of when tax return due and payment of tax due**
Primary Sponsor: Ron Erickson

Previously, statute required the payment of individual income tax when the return was filed, even in situations in which the return was filed before the due date of April 15. HB58 revises the law to provide that a payment is not late unless it is received after April 15, even if the return itself is filed prior to April 15.

Effective Date: Effective October 1, 2003

HB 59 Short Title: **Revise elderly homeowner/renter tax credit – 5-year time period – DOR record requirements**
Primary Sponsor: Ron Erickson

This bill removes the requirements that the Department of Revenue maintain records of applications for extensions, and the reasons for these extensions, for persons filing for the elderly homeowner/renter tax credit. It further provides that the department or the individual may adjust or make a claim for the credit within five years of the date on which they become eligible for the credit.

Effective Date: Effective on passage and approval

HB 106 Short Title: **Revise provisions relating to inheritance and estate taxes**
Primary Sponsor: Ron Erickson

This is a housekeeping bill that updates reporting requirements of the uniform probate code and estate tax.

This bill requires an inventory of assets for all estates. Formerly, an inventory was required only for estates required to file a federal estate tax return. This bill eliminates requirements for sending a copy of the inventory and any supplementary inventory to the department.

The bill clarifies that a certificate showing payment of taxes or no taxes due is required for closing an estate only when the estate is required to file a federal estate tax return.

This bill eliminates obsolete language relating to county treasurers' reports to the Department of Revenue on inheritance tax collections. These reports are no longer needed because the tax is paid directly to the department.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies to estates resulting from deaths after December 31, 2000 with probate closing after the effective date

HB 117 Short Title: **Clarifying unemployment insurance tax laws under Department of Revenue**
Primary Sponsor: Christine Kaufmann

This is a housekeeping bill relating to unemployment insurance tax administration. It replaces "subpoena" with "summons" to be consistent with usage in other sections of law. It allows the Department of Revenue to correct errors in an employer's classification or contribution rate without a written request from the employer. It corrects an error made by the 1999 Montana Legislature, which made penalty and interest provisions for unemployment insurance tax and withholding tax different. This change restores the department's ability to waive penalty and interest for a first-time late filing or payment of unemployment insurance tax.

Effective Date: Effective on passage and approval

HB 188 Short Title: **Clarify authority to enter private property for property tax audit and appraisal**
Primary Sponsor: Ronald Devlin

Provisions in the bill create an exception to the criminal trespass laws for Department of Revenue employees who perform field audits and appraisals of property. Currently, Department of Revenue employees are banned from entering onto properties posted as "no trespassing." The enactment of this legislation would enable those employees to enter onto "no trespassing" properties, providing that specific guidelines are followed by the employee.

The bill requires the Department of Revenue to publish a notice in every newspaper of general circulation in each county no later than November 30 of each successive year. The notice is to specifically address the options available to the taxpayer regarding entry onto the property by Department of Revenue employees. Additionally, a form must be developed by the Department of Revenue that will allow taxpayers to request that the landowner be present when an appraiser or auditor enters their land to appraise or audit property.

Within 60 days after the effective date of HB188, the Department of Revenue is required to mail a notice to the owner of posted private land that property valuation staff of the Department of Revenue may enter the property to appraise or audit property for property tax purposes. The County Treasurers, on the annual tax notice mailing, will provide notice to landowners that Department of Revenue employees may enter private land for appraisal and audit purposes.

If a landowner prevents a qualified DOR staff from entering land to appraise or audit property, the department will estimate the value of the real and personal property located on the land. The county tax appeal board and the state tax appeal board may not adjust the estimated value of the property unless the landowner gives permission to the department to enter the land to appraise or audit the property.

Effective Date: Effective on passage and approval

HB 207 Short Title: **Revise property tax assessment and certification dates**
Primary Sponsor: Jesse Laslovich

The Department of Revenue has statutory responsibility to compile and certify the taxable value of each taxing jurisdiction. Prior to HB207, the statutory deadline for certification of taxable values was the second Monday in July. This bill changes the statutory language from the second Monday in July to the first Monday in August. The bill also changes statutory date language in those sections of law that have historically been linked to the second Monday in July date for certification of taxable values. Upon a request of a taxing authority, the department will provide an estimate of taxable value within the jurisdiction by the second Monday in July.

Effective Date: Effective retroactively to tax year 2003

HB 233 Short Title: **Clarify tax credit for geothermal system**
Primary Sponsor: Karl Waitschies

This is a cleanup bill that removes an erroneous internal reference. The old language referred to a subsection 3 of the statute when there was no subsection 3.

Effective Date:	Effective on passage and approval

HB 236 Short Title: **Clarify and revise use of bond proceeds for POINTS I**
Primary Sponsor: Ron Erickson

This bill allows the Department of Revenue to use any remaining bond proceeds issued for stabilization and assessment of software and data in the POINTS project. The proceeds could be used for:

- planning, development, acquisition, installation, administration, and implementation of information technology systems to replace current Department of Revenue information technology systems;
- planning, development, and implementation of business process changes to facilitate and enable the replacement activities, and
- staffing of a project management office to facilitate and enable the replacement and business process change activities.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies retroactively to acts and expenditures after November 2, 2002

HB 391 Short Title: **Correct tax law errors relating to federal law – lump sum, energy, investments**
Primary Sponsor: Joe Balyeat

This bill corrects references to the IRS Code for lump-sum pension distributions and the credit for investment in energy property. The changes are made so that Montana law does not cite repealed federal law as existing federal law. The bill also notes that the federal investment tax credit upon which the state credit is based was repealed nearly 20 years ago. The Montana investment tax credit had been left in the Code because it could affect open tax years. At this time, there are, for all practical purposes, no longer open tax years left to be impacted by these laws.

Effective Date:	Effective on passage and approval
Applicability Date:	Applies retroactively to tax years beginning after December 31, 1999 (section 1) and to tax years beginning after December 31, 2001 (section 2)

HB 406 Short Title: **Exception for timely deposit for Department of Revenue**
Primary Sponsor: Karl Waitschies

This bill provides that money received by the Department of Revenue from the collections of taxes, fees, and debts is not subject to the timely deposit requirements of 17-6-105(6), MCA; and further provides that the department shall deposit all money received within a reasonable time after receipt.

Effective Date: Effective on passage and approval

HB 552 Short Title: **Clarify automatic extension for corporate income tax**
Primary Sponsor: Brennan Ryan

This bill extends to corporations filing a “consolidated” return the opportunity currently provided to other corporations of filing an automatic, paperless extension of time (up to six months) for filing their return.

Effective Date: Effective on passage and approval
Applicability Date: Applies to tax returns due after the effective date of the act

SB 114 Short Title: **Revise state-local government revenue allocation changes**
Primary Sponsor: Royal Johnson

SB114 clarifies that the growth rates to be applied to the local government entitlement share payments provided for in HB124 (2001) are to be applied retroactively beginning with tax year 2002, rather than tax year 2004, as was inadvertently coded in the original legislation.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to December 31, 2001

SB 138 Short Title: **Revise tax laws on alternative energy and energy conservation**
Primary Sponsor: John Cobb

This bill corrects a technical problem related to the property tax incentives granted by the 2001 Montana Legislature. The 2001 Montana Legislature in SB506 provided property tax incentives for the new construction of alternative energy generation of less than one megawatt by exempting it from property taxation for the first five years. SB506 also provided that alternate energy generation over one megawatt could now qualify for the existing new or expanding property tax incentive. The intent in SB506 was to provide property tax relief based on the one megawatt criteria. However, the language in SB506 gave a permanent exemption from property taxation to all alternative energy generation. This bill will rectify the technical problems from 2001 and implement the intent of the legislature.

SB138 also clarifies inconsistent language that occurred with the passage of SB506 regarding income taxes. SB138 strikes language in 15-32-104, MCA providing that a person or firm can take up to $100,000 in tax credits for certain energy conservation purposes per year to make the law consistent with the provisions of 15-32-109, MCA, which limits the credit to $500. This bill also eliminates the energy conservation credit seven-year carryforward provision.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to tax years beginning after December 31, 2001

SB 271 Short Title: **Eliminate POINTS system – unemployment insurance tax not under replacement system**
Primary Sponsor: Corey Stapleton

This bill provides that the Chief Information Officer and the Department of Administration, working in conjunction with the Department of Revenue and the Department of Labor & Industry, will replace the POINTS computer system with a new system. In this process, unemployment insurance tax collections and transactions currently being processed by the POINTS system will be transferred to the Department of Labor and Industry for future processing by February 1, 2005. The system replacing POINTS must be phased in to process all other Department of Revenue tax and debt collection functions.

The bill further provides that the Chief Information Officer and the Department of Administration, working in conjunction with the Department of Revenue and the Department of Labor & Industry, will plan replacement system requirements, and prior to February 1, 2005 will have in operation a base component and at least one tax processing component of the replacement system.

To provide funding for the new computer system, SB271 provides that the Department of Revenue is to establish a fee of up to 0.45% of selected taxes. The fee must be set annually to provide revenue equal to the debt service on bonds or principal and interest payments on loans used to fund the project.

Effective Date: Generally effective on passage and approval

SB 316 Short Title: **Clarify energy conservation and mineral exploration credits**

Primary Sponsor: Duane Grimes

This bill provides that the Department of Revenue may refer a deduction or credit involving energy conservation to the Department of Labor and Industry for its advice. Prior to SB316 the Department of Administration was the designated agency that the Department of Revenue could refer to for advice. The bill also clarifies that the mineral exploration incentive credit (15-32-507, MCA) may not exceed a total of $20 million for all exploration activities.

Effective Date: October 1, 2003

Bills Affecting General Fund Revenues

A total of 53 bills (29 House bills and 24 Senate bills) passed during the 58th Legislative Assembly have been identified as having an impact on state general fund revenues. The net impact of these bills is to increase general fund revenues a total of $129.2 million over the period fiscal 2003-2005. Two of these bills – *SB407, the major comprehensive tax reform bill discussed in the first section of this report, and HB363, which provided for transfers of reserve funds from the worker's compensation old fund account* – account for $96.9 million of this amount.

Space and time limitations preclude a detailed discussion of each of these bills. However, some of the more important bills, such as SB407, are discussed in other sections of this report.

The following two pages provide a summary of the House and Senate bills that impacted state general fund revenues.

House Bills With General Fund Revenue Impact
2003 Legislative Session

Bill #	Short Title	Estimated Fiscal Impact FY2003	FY2004	FY2005
HB0002	General appropriations act	-	(1,158,075)	174,677
HB0062	Revise apiculture laws	-	(17,730)	(17,730)
HB0096	Eliminate advanced telecommunications infrastructure tax credit	-	300,000	300,000
HB0121	Clarify deposit of payment from state hospital and nursing care center	-	3,180,119	3,180,119
HB0141	Felony for causing high speed pursuit	-	6,200	6,200
HB0159	Separate licensure of food manufacturers from retail establishments	-	337	337
HB0160	Reauthorize natural resource damage program	-	(21,807)	(44,135)
HB0186	Revise motor vehicle dealer licensing	-	18,331	18,331
HB0195	Mandatory penalty provisions for DUI offenders for federal funding	-	271,200	352,200
HB0206	Change driver license fee - distribution	-	437,740	437,740
HB0215	Fee for reinstatement of driver's license	-	309,900	619,800
HB0237	Require muffler on motor vehicle with compression brakes	-	650	650
HB0261	Increase municipal finance debt limits - increase vehicle fees to repay loan	-	51,266	52,342
HB0280	Authorize use of originally-issued vintage automobile license plates	-	23,000	(10,500)
HB0363	Remove reserve requirements for old fund	18,268,000	4,300,000	3,780,000
HB0452	Tax credit for developmentally disabled funding	-	139,800	25,200
HB0478	Allow for driver license suspension for failure to comply with sentence	-	550,884	721,260
HB0480	Increase penalty for failure to report motor vehicle accidents	-	26,400	26,400
HB0559	Registration decal as evidence of fee payment for vehicles and vessels	-	6,102,711	3,809,689
HB0564	Create primary sector business workforce training act	-	122,238	525,709
HB0616	Revise endowed philanthropy tax credit	-	1,379,000	563,000
HB0677	Justice court jurisdiction over natural streambed and land preservation	-	(1,500)	(1,500)
HB0689	Revise laws relating to lobbying	-	-	(9,700)
HB0722	Provider tax on intermediate care facilities	438,289	909,191	891,488
HB0727	Close Eastmont Human Services Center	-	(946,129)	(815,563)
HB0743	Include mental health nursing care center in bed tax	-	73,600	73,275
HB0748	Simplification of oil and natural gas tax distribution	3,273,000	-	-
HB0758	Surcharge fee on video gambling machines and smoking ordinance exemption	-	256,710	256,710
HB0767	Revise motor vehicle and driving record laws	-	21,628	12,023
	Total Estimated Impact From All House Bills	**21,979,289**	**16,335,664**	**14,928,022**

Senate Bills With General Fund Revenue Impact
2003 Legislative Session

Bill #	Short Title	Estimated Fiscal Impact FY2003	FY2004	FY2005
SB0013	Reduce DUI blood alcohol to .08 for federal highway aid funds	-	21,484	21,484
SB0026	Revise Title Loan Act	-	(32,000)	(32,000)
SB0035	Revise criminal procedure for developmentally disabled	-	25,645	-
SB0065	Revise veteran's property tax and vehicle fee benefits	-	(6,585)	(117,677)
SB0089	Exempt local governments from uniform unclaimed property act	(34,750)	(139,000)	(139,000)
SB0112	Fund search and rescue with certain fees	-	34,566	52,108
SB0118	License plates - delay new issue, change costs, generic specialty plates	-	(483,420)	(591,813)
SB0121	Revise taxation of pass-through entities	-	50,000	200,000
SB0128	State special revenue account for criminal history record dissemination	-	(62,000)	(62,000)
SB0131	Board of Investments purchase of loans from local development organizations	-	(40,000)	(70,000)
SB0138	Revise tax laws on alternative energy and energy conservation	-	169,661	313,718
SB0144	Revise securities laws	-	6,000	6,000
SB0159	Tax exemption for certain RR property leased to nonprofit organization	-	(1,703)	(1,703)
SB0271	Eliminate POINTS system - UI tax not under replacement system	-	(196,650)	(1,671,089)
SB0294	Revise interest rate applied to refund of protested property taxes	5,699,245	2,660,278	2,660,278
SB0320	Revise local government laws concerning tax increment base value	-	(1,425)	(1,425)
SB0362	Revise penalties for minor in possession law violations	-	19,250	19,250
SB0387	Conform retail telecommunications excise tax to federal mobile sourcing act	-	189,000	198,000
SB0401	Revise membership and duties concerning veterans affairs	-	433,075	731,396
SB0407	Income tax reduction with revenue from limited sales tax	5,792,382	40,582,521	24,155,429
SB0408	Adjustment to state income tax for certain health care professionals	-	(37,500)	(37,500)
SB0461	Mitigate effects of cyclical reappraisal	-	(1,924,461)	(6,079,208)
SB0464	Revise health and safety laws regarding food establishments	-	4,050	3,750
SB0493	Revise motor vehicle computer system law to implement appropriations bill	-	2,000,000	1,700,000
	Total Estimated Impact From All Senate Bills	**11,456,877**	**43,270,786**	**21,257,998**

Bills Affecting Revenue Administration

HB 10 Short Title: **CERCLA bonds for Libby reclamation state matching funds**
Primary Sponsor: Rick Maedje

This bill is intended to guarantee that the state has funds to meet its financial obligations for cleanup of the Libby Superfund site. It authorizes the Department of Environmental Quality to sell bonds to cover the state's share of the costs. Amounts recovered from the responsible parties are to be deposited in a new CERCLA cost recovery special revenue account. At the end of each fiscal year, funds up to the amount of debt service payments in the next fiscal year are to be transferred from the cost recovery account to the CERCLA match debt service account. If the balance in the cost recovery account is less than required debt service payments, DEQ is to certify the additional amount needed to make the debt service payments. That amount of resource indemnity and groundwater assessment tax revenue is then to be allocated to the CERCLA match debt service account. The remainder of revenue from the tax is to be allocated as under prior law.

Effective Date: Effective July 1, 2003

HB 88 Short Title: **De-earmark certain local government and school funds – revise earmarking law**
Primary Sponsor: Dave Kasten

HB88 amends current statute that establishes criteria for the review and evaluation of dedicated revenue provisions (17-1-501, MCA). Dedicated revenue provision is defined as an administrative or legislative action that allocates revenue to an account in the state special revenue fund or to a local government. When reviewing revenue sources and determining distributions to local governments, the Department of Revenue may determine that the use of a dedicated revenue provision is not justified. The review is to be made in the context of the policy and purpose expressed in 15-1-120, MCA. If it is determined that the use of a dedicated revenue provision is not justified, the use or proposed use must be reported to the legislative fiscal analyst. The bill outlines criteria for when a local government dedicated revenue provision is justified.

Effective Date: Effective July 1, 2003

HB 206 Short Title: **Change driver's license fee distribution**
Primary Sponsor: Cindy Younkin

This bill increases, and changes the distribution of, driver's license fees to provide additional funding for the Montana highway patrol retirement account. The change in the distribution of fees must be reflected in the Visual Basics program used to support deposit of revenues collected through the county collections reporting system.

Effective Date: Effective July 1, 2003

HB 481 Short Title: **Imposing a utilization fee on hospitals for acute in-patient care days**
Primary Sponsor: Dave Lewis

This bill requires each hospital in the State of Montana to pay a new utilization fee for each inpatient bed day. The fee is $32.44 during the period July 1, 2003 through December 31, 2003 and $19.43 during the period July 1, 2004 through June 30, 2005. The department is to collect the fee and deposit the proceeds in the hospital Medicaid reimbursement account. The Department of Public Health and Human Services is to use funds in the account to increase Medicaid payments to hospitals.

Hospitals are required to file annual reports and pay the utilization fee for the preceding calendar year by the end of January.

Effective Date: Effective July 1, 2003 and terminates June 30, 2005

HB 490 Short Title: **Revise requirement for permanent disability claim for parental tax deduction**
Primary Sponsor: Rosie Buzzas

Taxpayers are allowed an additional personal exemption for children with disabilities. Prior to HB490, taxpayers were required to provide medical documentation of the child's disability with each filing of a tax return. HB490 provides that the initial documentation remains in effect in the subsequent tax year unless there is a change in the dependent's physical circumstances to the extent that the dependent no longer qualifies for the additional exemption.

Effective Date: Effective October 1, 2003

Applicability Date: Applies retroactively to tax years beginning after December 31, 2002

HB 429 Short Title: **Create property tax exemption study committee**
Primary Sponsor: Dave Kasten

HB429 creates an interim study committee to conduct a study of property tax exemptions. The committee will investigate whether property tax exemptions contribute to or impede the goal of an equitable property tax system and determine whether existing property tax exemption laws should be modified or repealed in order to achieve the goal of an equitable property tax system. The committee will submit a written report to the governor and legislature not later than November 1, 2004. The report will include options, if any are considered necessary, and proposed legislation necessary to implement any proposals.

The committee is attached to the Department of Revenue for administrative purposes. There is appropriated from the general fund the amount of $6,000 for the biennium for the operating expenses and personnel expenses of the committee.

Effective Date: Effective on passage and approval

HB 564 Short Title: **Create primary sector business workforce training act**
Primary Sponsor: Monica Lindeen

This bill creates the "Primary Sector Business Workforce Training Program."

It provides for a seven-member *loan* review committee to make *grants* to qualifying "primary sector businesses" to pay for employee education and training provided by "eligible training providers." A primary sector business is one that is either 1) locating in Montana for the first time, or 2) expanding to add value to a product, process, or export service; and for which at least 50% of the sales occur outside Montana, or the employer is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana. In addition, among other things, to be eligible for the grant the primary sector business must:

a) show prospect for achieving commercial success and for creating new jobs;

b) be reasonably expected to provide an economic return in a reasonable period of time; and
c) provide matching funding equal to at least $1 for every $3 of grant funding requested.

The grant applicant must further meet at least one of the following criteria:

a) be a value-added business as defined by the Montana Board of Investments;
b) demonstrate a significant positive economic impact to the region and state *beyond the job creation involved in applying for the grant*;
c) provide a service or function that is essential to the locality or state; or
d) be a for-profit or nonprofit hospital or medical center providing a variety of medical services for the community or region; and
e) engage in a workforce training program that involves at least 10 new jobs.

Furthermore, contracts with grant recipients must contain provisions that:

a) require the full amount of any grant to be reimbursed in the event that the primary sector business ceases operation within the 12-month grant contract period;
b) requires the employer receiving the grant to repay any shortfall in the personal income tax revenues that otherwise would have accrued to the state as a result of failing to meet the number of jobs or pay level of those jobs described in the final grant application.

Any grants issued may not exceed $5,000 for each full-time position, for the person being trained. A grant may be provided only for a new job that has an average weekly wage that meets or exceeds the lesser of Montana's current weekly wage, the current weekly wage of the county in which the employees are to be principally employed, or for jobs that will be principally located on a reservation, the current average weekly wage of the reservation. Also, the total grant amount cannot be larger than the present value of the expected incremental individual income tax receipts expected over the 10-year period immediately following the grant award.

The grants will be repaid based on a "new jobs credit" that must be based on the gross wages paid for new jobs created under the program. The Department of Revenue is to calculate the credit amount based on the gross wages paid by the employer, and may use a statewide average effective tax rate by income bracket to calculate estimated receipts from the gross wages paid. This amount is then transferred to a state special revenue account to the credit of the Department of Commerce who will credit grant accounts for these receipts.

Effective Date:	Effective on passage and approval, and applies to grants issued on or after the effective date
Termination Date:	Terminates June 30, 2007

HB 608 Short Title: **State-tribal government-to-government relationship**
Primary Sponsor: Jonathan Windy Boy

This bill is designed to support strengthening communications and building collaborative relationships that will benefit both the Indian Nations and the State of Montana. The bill outlines guiding principles to be considered by state agencies in formulation or implementing policies or administrative rules that have direct tribal implications. HB608 also sets up a procedure to provide training to state agency managers and key employees who have regular communication with tribes. By December 15 of each year, a state agency shall submit a report to the governor and to each tribal government on the activities of the state agency relating to tribal government and tribal populations.

Effective Date: October 1, 2003

HB 631 Short Title: **Clarify nonjudicial foreclosure of security interest in liquor license**
Primary Sponsor: Bob Lake

Section 16-4-801, MCA allows security interests in liquor licenses. A security interest in a liquor license secures payment or other performance of a contractual obligation. For example, a party selling a liquor license may retain a security interest in the license to guarantee payments under the contract for sale.

Section 16-4-801, MCA also specifies procedures to be followed in case of a default on the obligations guaranteed by a security interest in a liquor license. This bill expands the definition of default to include a nonjudicial sale by the secured party.

Effective Date: Effective on passage and approval

HB 663 Short Title: **Enhance enforcement of tobacco products reserve fund law**
Primary Sponsor: Jesse Laslovich

To sell cigarettes in Montana, a cigarette manufacturer must either participate in the Master Tobacco Settlement of November 23, 1998 or place funds in escrow to cover future liability from adverse health effects on users of their products. This bill provides enforcement procedures for the Department of Justice to ensure that this requirement is not circumvented. This includes maintaining a list of manufacturers and their brands that comply with the requirements.

This bill makes it unlawful to sell or affix a tax insignia to cigarettes of a brand that are not on the list of compliant manufacturers and brands.

Effective Date: Effective on passage and approval
Applicability: Applies to all actions for which a final judgment has not been entered before the effective date

SB 7 Short Title: **Exempt local elected officials from lobbyist registration fee**
Primary Sponsor: Edward Butcher

SB7 expands the exemption under lobbying laws to several public officials. Generally, the list of those exempt now includes: public officials appointed by the Governor, the Chief Justice of the Montana Supreme Court, the Board of Regents, and the Board of Trustees of a community college, plus any person elected to a federal, state, local, or tribal office. By definition in SB7, these people are not lobbying while acting in an official governmental capacity.

Effective Date: Effective on passage and approval

SB 31 Short Title: **Clarify judgment levies exempt from mill levy limits**
Primary Sponsor: John Cobb

This bill includes local government judgment levies (7-6-4015, MCA) as a levy that is exempt from the statutory mill levy limit in 15-10-420, MCA. HB124 of the regular 2001 Legislative Session included two other judgment levy provisions (2-9-316 and 7-7-2202, MCA) in the exemption from the statutory mill levy limit. The judgment levy in 7-6-4015, MCA, is very similar to these two judgment levies.

Effective Date: October 1, 2003

SB 40 Short Title: **Coordinate licensing for gambling and liquor**
Primary Sponsor: Dale Mahlum

This bill makes several changes to the alcohol and gambling licensing process. It authorizes the current practice of having the Department of Justice to receive and process combined gambling and alcoholic beverage applications. It eliminates requirements in sections 16-4-402 and 420, MCA that the Department of Revenue request the Department of Justice to make an investigation and directs the Department of Justice to make the required investigations. When the department receives a complaint that a licensee has violated the law, this bill allows the Department of Revenue to rely on an investigation by a local law enforcement agency or the licensee's admissions rather than requiring a duplicative investigation by the Department of Justice.

This bill eliminates the requirement that applicants for an alcoholic beverage license provide the department any requested information within 30 days. It extends the 90-day period for the Department of Justice to complete its investigation of an applicant and the Department of Revenue to determine whether a license will be granted for any time during which the applicant has failed to provide information, has asked for a delay, or is remodeling or constructing the premises to be licensed.

This bill requires applicants to submit fingerprints, which allows for a background check using the FBI's fingerprint database.

Effective Date: Effective on passage and approval

SB 71 Short Title: **Revise woodstove certification standards**
Primary Sponsor: Gregory D. Barkus

SB71 revises the definition of "low emission wood or biomass combustion devise" for the purposes of the alternative energy deductions and credits. Prior to SB71, the Department of Environmental Quality was required to determine if woodstoves met the state-defined emission criteria and therefore qualified for an individual income tax credit. SB71 relieves the Department of Environmental Quality of the duty to determine qualifying woodstoves and would instead incorporate EPA certification as qualification for the income tax credit.

Effective Date: Effective on passage and approval
Applicability Date: SB71 applies retroactively to tax years beginning after December 31, 2001

SB 77 Short Title: **Continue universal service benefits program**
Primary Sponsor: Royal Johnson

This bill would extend universal service benefits programs through December 31, 2005. Under current law, they terminate July 1, 2003. Utilities are required to provide a minimum level of funding for energy conservation, low-income energy assistance and other programs. If a utility's direct funding of qualifying programs is less than its funding requirement, it must pay the difference to the department for deposit into the universal service benefit account.

Effective Date: Effective on passage and approval

SB 89 Short Title: **Exempt local governments from uniform unclaimed property act**
Primary Sponsor: Bill Tash

This bill exempts local government entities from reporting and remitting unclaimed property in their possession to the State of Montana. Examples of this property are payroll checks, county warrants, overpayments of property, etc.

Effective Date: Effective on passage and approval

SB 117 Short Title: **Exempt intra-governmental policies from MAPA**
Primary Sponsor: John Cobb

SB117 provides that executive branch agency policies, regulations, standards and statements concerning the internal management of state government that do not affect private rights or procedures available to the public do not constitute rules for the purposes of the Montana Administrative Procedure Act. Policies, regulations, standards and statements that fit these criteria do not have to be substantiated by law.

Effective Date: October 1, 2003

SB 126 Short Title: **Clarify property tax exemptions**
Primary Sponsor: Bob Story

SB126 clarifies that property that is currently in class 8 would become property exempt from property tax if the tax rate for class 8 reaches 0%. This is done by moving the property currently described in class 8 (15-6-138, MCA) into the exempt property statute (15-6-201, MCA).

The bill also amends the term agricultural to include biological control insects. This now means that land used to produce biological control insects can qualify as agricultural land.

A third change made by SB126 is to repeal laws relating to the assessment and taxation of insurance companies. The repealed sections of law are outdated and redundant to general property tax laws.

Effective Date: Clarification of class 8 exempted property is effective January 1, 2003; the remainder of the bill is effective October 1, 2003

SB 294 Short Title: **Revise interest rate applied to refund of protested property taxes**
Primary Sponsor: Kelly Gebhardt

The bill changes the required interest rate on the refunded portion of taxes and fees paid under protest. The old law set the interest rate at the greater of 6% or the rate of interest earned by the protest fund. This resulted in the interest amount added to the refunded portion being more than the actual amount of interest earned by the protest fund. The interest rate is now set to be the rate earned by the protest fund.

SB294 requires the county treasurer to remit to the state treasurer the state share of protested property taxes on property that is centrally assessed. The section of the bill applies to property taxes paid under protest on centrally assessed property after October 31, 2000. Although the bill states that the payments are to be made to the state treasurer, the Department of Revenue is administering this part of SB294.

The bill allows that, for the first year that property taxes are protested on property that is centrally assessed, local governments and local schools can take their share of the protested amount from the protest fund. Under prior law, local governments and local schools could only request use of the protested amounts after waiting one year.

Effective Date: Effective on passage and approval
Applicability Date: SB294 applies retroactively to any tax appeal or tax paid under protest after October 31, 2000, except for refunds of property taxes made after October 31, 2000 but before the passage and approval of the bill

SB 302 Short Title: **Revise taxation of multiple undivided interests in a single parcel of property**
Primary Sponsor: Bea McCarthy

SB302 addresses the manner in which undivided ownership interests in property are to be assessed and billed for property tax purposes. Under prior law, the Department of Revenue was required to send the assessment notice to only one of the owners of multiple undivided interests in a parcel of property. This bill provides that a co-owner or co-owners of undivided interests in a parcel of property can under certain conditions acquire a tax lien on the undivided interest of a non-paying co-owner of the same parcel of property. This may occur upon payment of three years of taxes on the unpaid ownership interest, with proper notification to the non-paying owner.

For multiple undivided interests of mining claims existing on or prior to April 30, 2001, the Department of Revenue will, upon request of all the owners, send separate assessments to each owner. For multiple interests created after April 30, 2001, the department is not required to send separate assessments to each owner.

Effective Date: October 1, 2003

SB 334 Short Title: **Revise number of alcohol vendor representatives allowed by law**
Primary Sponsor: Mike Sprague

This bill changes the requirements for representatives of vendors who sell liquor to the Department of Revenue. Under prior law, a vendor was required to have one representative and allowed to have a second representative. If either position became vacant, it was required to be filled within 60 days. This bill allows a third representative. It also eliminates the requirement for refilling the optional representative positions within 60 days.

Effective Date:	October 1, 2003

SB 415 Short Title: **Revise law on golf course beer and wine licenses**
Primary Sponsor: Fred Thomas

This bill changes the requirements for a golf course to obtain a beer and wine license. Under prior law, the course was required to have eighteen holes and be at least 6,000 yards long. This bill requires the course to have at least nine holes and be at least 2,500 yards long. Under prior law, the course was required to be within one mile of the limits of an incorporated city or town. This bill requires the course to be within five miles of the limits of an incorporated city or town. This bill requires applicants that are not 501(c)(3) tax-exempt organizations to pay an initial application fee of $20,000.

Effective Date:	Effective on passage and approval
Applicability:	Applies to applications filed on or after the effective date

SB 487 Short Title: **Revise laws related to wind energy taxation and economic development**
Primary Sponsor: Gerald Pease

Part 4 of Title 15, Chapter 32, MCA allows a credit against income tax or corporation license tax for investments in qualifying wind energy systems. This bill removes references to a similar federal tax credit that was repealed in 1994.

This bill also has provisions dealing with bonds issued by the Board of Investments. These provisions do not affect the Department of Revenue.

Effective Date:	Tax portions of this bill are effective July 1, 2005